

1 Oct 2003

REGULATORY BRANCH MEMORANDUM 2003-01

SUBJECT: Floating Homes in the Legal Delta

1. Purpose. To establish policy regarding the location or relocation of floating residential structures in the Legal Delta.

2. Applicability. This applies to Regulatory actions in Section 10 waters in the Legal Delta within the Sacramento District.

3. References.

a. Section 10 of the Rivers and Harbors Act of 1899, 33 USC 403.

b. 33 CFR Parts 320-331.

4. Definition. In the Sacramento District, a floating home is defined as any barge, boat, or building, containing living quarters or recreation rooms, designed to float but not reasonably capable of navigating under its own power. Living quarters or recreation rooms with foam floatation are not reasonably capable of navigating under their own power. Floating homes, except in unusual circumstances, are structures for purposes of Section 10 of the Rivers and Harbors Act of 1899.

The District will determine whether a floating home is a structure under Section 10 based on the following:

- a. Record of past mobility and the types of use;
- b. Indicated types and frequency of future use;
- c. Suitability of land for the types of use in (a) and (b) above;
- d. Presence or absence of the various lighting, fire

fighting, and safety devices required by the U.S. Coast Guard for vessels of various lengths, and compliance with similar requirements of the state;

e. Practical potential for boat-like mobility of the vessel;

f. Permanence of utility and other connections, including connection of the vessel to a dock or pier;

g. Presence or absence of boat licensing numbers;

h. Other facts which have a bearing on whether a given vessel is permanently or semi-permanently moored.

Note that the final determination will be based on an examination of all of the pertinent facts. Compliance with one of the factors above shall not of itself be determinative.

5. Policy. In general, the installation of floating homes in navigable waters of the United States is an unnecessary intrusion into these waters. The proliferation of such structures causes cumulative adverse effects on the navigable capacity of the nation's waters, on water quality, and on fisheries and wildlife. Structures for human habitation should be placed in an upland location, not in the waterways. Therefore, in most circumstances, applications to locate or retain floating homes in navigable waters of the United States will not be approved. (Note that this statement of policy does not represent nor constitute a permit decision. Each permit application will be judged on its own merits, with consideration given to this guidance.)

In addition, this policy allows for existing floating homes to be moved to, and moored within, the confines of an approved marina without additional permit action, provided the marina meets the following guidelines:

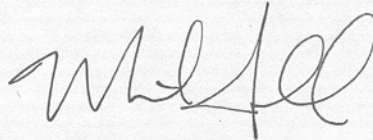
a. It is a commercial facility that provides dockage for boats, yachts, and other water-dependent craft;


b. It is permitted by a Department of the Army permit;



c. It has sewer facilities, approved by the agency responsible for such facilities, that are capable of disposing of waste products from floating homes; and

d. It must be large enough so that the addition of a floating home will not encroach upon the navigable waterway beyond any existing structure in the marina, add to the lateral development of the marina, nor encroach upon adjacent water influence areas of other property owners.

A handwritten signature in dark ink, appearing to read 'W. J. Rosenau', with a stylized, cursive script.

 ANDREW J. ROSENAU  
Chief, Regulatory Branch